

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE
BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend s. Ins 17.01 (3), s. Ins 17.28 (6a), and to repeal and recreate s. Ins 17.28 (6), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

Statutes interpreted: s. 655.27 (3), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2000. These fees represent a 25% decrease compared with fees paid for the 1999-00 fiscal year. The board approved these fees at its meeting on February 23, 2000, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next

fiscal year at \$ 38.00 for physicians and \$2.00 per occupied bed for hospitals, representing an increase of more than 100% and 100% respectively, from 1999-00 fiscal year mediation panel fees.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2000.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 00-061, will be filed with the secretary of state in time to take effect September 1, 2000. Because the fund fee provisions of this rule first apply on July 1, 2000, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 5, 2000.

SECTION 1. Ins 17.01 (3) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, ~~1999~~ 2000:

(a) For physicians-- ~~\$16.00~~ \$38.00

(~~b~~) For hospitals, per occupied bed-- ~~\$1.00~~ \$2.00

SECTION 2. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2000, to and including June 30, 2001:

(a) Except as provided in pars. (b) to (f) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$1,898	Class 3	\$7,877
Class 2	\$3,606	Class 4	\$11,388

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	\$949	Class 3	\$3,938
Class 2	\$1,803	Class 4	\$5,694

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes	\$1,139
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(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	\$759	Class 3	\$3,150
Class 2	\$1,442	Class 4	\$4,554

(e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures:

\$475

(f) For a physician for whom this state is not a principal place of practice:

Class 1	\$949	Class 3	\$3,938
Class 2	\$1,803	Class 4	\$5,694

(g) For a nurse anesthetist for whom this state is a principal place of practice:

\$475

(h) For a nurse anesthetist for whom this state is not a principal place of practice:

\$237

(i) For a hospital:

1. Per occupied bed \$116; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available:

\$5.80

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., which is wholly owned and operated by a hospital and which has health care liability insurance separate from that of the hospital by which it is owned and operated:

Per occupied bed	\$22.00
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(k) For a partnership comprised of physicians or nurse anesthetists, organized for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of partners and employed physicians and nurse anesthetists is from 2 to 10 \$66
- b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$661
- c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$1,652

2. The following fee for each of the following employees employed by the partnership as of July 1, 2000:

Employed Health Care Persons	July 1, 2000 Fund Fee
Nurse Practitioners	\$ 475
Advanced Nurse Practitioners	664
Nurse Midwives	4,176
Advanced Nurse Midwives	4,365
Advanced Practice Nurse Prescribers	664
Chiropractors	759
Dentists	380
Oral Surgeons	2,847
Podiatrists-Surgical	8,067
Optometrists	380
Physician Assistants	380

(L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$66

b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$661

c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,652

2. The following for each of the following employees employed by the corporation as of July 1, 2000:

Employed Health Care Persons	July 1, 2000 Fund Fee
Nurse Practitioners	\$ 475
Advanced Nurse Practitioners	664
Nurse Midwives	4,176
Advanced Nurse Midwives	4,365
Advanced Practice Nurse Prescribers	664
Chiropractors	759
Dentists	380
Oral Surgeons	2,847
Podiatrists-Surgical	8,067
Optometrists	380
Physician Assistants	380

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1.a. If the total number of employed physicians and nurse anesthetists is from 1 to 10 \$66

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$661

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,652

2. The following for each of the following employees employed by the corporation as of July 1, 2000:

Employed Health Care Persons	July 1, 2000 Fund Fee
Nurse Practitioners	\$ 475
Advanced Nurse Practitioners	664
Nurse Midwives	4,176
Advanced Nurse Midwives	4,365
Advanced Practice Nurse Prescribers	664
Chiropractors	759
Dentists	380
Oral Surgeons	2,847
Podiatrists-Surgical	8,067
Optometrists	380
Physician Assistants	380

(n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f),

Stats., all of the following fees:

1. Per 100 outpatient visits during the last calendar year for which totals are available

\$.14

2. 2.5% of the total annual fees assessed against all of the employed physicians.

3. The following for each of the following employees employed by the operational cooperative

sickness plan as of July 1, 2000:

Employed Health Care Persons	July 1, 2000 Fund Fee
Nurse Practitioners	\$ 475
Advanced Nurse Practitioners	664
Nurse Midwives	4,176
Advanced Nurse Midwives	4,365
Advanced Practice Nurse Prescribers	664
Chiropractors	759
Dentists	380
Oral Surgeons	2,847

Podiatrists-Surgical	8,067
Optometrists	380
Physician Assistants	380

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are
available \$28

(p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:

1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS.

The following fee schedule is in effect from July 1, 1999 2000 to and including June 30, 2000 2001 for OCI approved self-insured health care providers who elect, pursuant to s. 655.23 (4) (c) 2., Stats., to increase their per occurrence limit to \$800,000 for each occurrence on or after July 1, 1999, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1999:

The fees set forth in sub. (6) multiplied by 1.073.

SECTION 4. EFFECTIVE DATE. This rule will take effect on July 1, 2000.

Dated at Madison, Wisconsin, this ____ day of _____ 2000.

/s/ _____
Connie L. O'Connell
Commissioner of Insurance